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8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2020-067165

13 **Faraz Frank Berjis, M.D.**
14 **100 Iverson Dr.**
Lafayette, CA 94549-3163

ACCUSATION

15 **Physician's and Surgeon's Certificate**
16 **No. A 73092,**

17 Respondent.

18
19 **PARTIES**

20 1. William Prasifka (Complainant) brings this Accusation solely in his official capacity
21 as the Executive Director of the Medical Board of California, Department of Consumer Affairs
22 (Board).

23 2. On or about September 21, 2000, the Board issued Physician's and Surgeon's
24 Certificate Number A 73092 to Faraz Frank Berjis, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on February 29, 2024, unless renewed. Respondent's Certificate is
27 suspended based on an Interim Suspension Order issued by the Board on November 7, 2022.

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, in pertinent part, states:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

“(b) Gross negligence.

“(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

...

“(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.”

6. Section 726 of the Code states, in pertinent part:

(a) The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this or under any initiative act referred to in this division.

7. Section 729 of the Code states, in pertinent part, states:

(a) Any physician and surgeon who engages in an act of sexual intercourse, sodomy, oral copulation, or sexual contact with a patient or client, or with a former patient or client when the relationship was terminated primarily for the purpose of engaging in those acts, unless the physician and surgeon has referred the patient or client to an independent and objective physician and surgeon recommended by a third-party physician and surgeon for treatment, is guilty of sexual exploitation by a physician and surgeon.

1 . . . For purposes of subdivision (a), in no instance shall consent of the patient
2 or client be a defense. However, physicians and surgeons shall not be guilty of sexual
3 exploitation for touching any intimate part of a patient or client unless the touching is
4 outside the scope of medical examination and treatment, or the touching is done for
5 sexual gratification.

6 (c) For purposes of this section:

7 (3) "Sexual contact" means sexual intercourse or the touching of an intimate
8 part of a patient for the purpose of sexual arousal, gratification, or abuse.

9 (4) "Intimate part" and "touching" have the same meanings as defined in
10 Section 243.4 of the Penal Code.

11 8. In addition to the above provisions, physicians and surgeons adhere to the Code of
12 Medical Ethics promulgated by the American Medical Association, including but not limited to
13 the following principles:

14 I. A physician shall be dedicated to providing competent medical care, with
15 compassion and respect for human dignity and rights.

16 II. A physician shall uphold the standards of professionalism, be honest in all
17 professional interactions, and strive to report physicians deficient in character or
18 competence, or engaging in fraud or deception, to appropriate entities.

19 . . .

20 VIII. A physician shall, while caring for a patient, regard responsibility to the patient
21 as paramount.

22 9. Code of Medical Ethics Opinion 9.1.1 states, in pertinent part:

23 Romantic or sexual interactions between physicians and patients that occur
24 concurrently with the patient-physician relationship are unethical. Such interactions
25 detract from the goals of the patient-physician relationship and may exploit the
26 vulnerability of the patient, compromise the physician's ability to make objective
27 judgments about the patient's health care, and ultimately be detrimental to the patient's
28 well-being.

A physician must terminate the patient-physician relationship before initiating a
dating, romantic, or sexual relationship with a patient.

10. Section 2228.1 of the Code provides, in pertinent part, that the Board shall require a
licensee who is disciplined based on sexual misconduct to disclose to his patients, information
regarding his probation status. The licensee is required to disclose: probation status, the length
of the probation, the probation end date, all practice restrictions placed on the license by the
Board, the Board's telephone number, and an explanation of how the patient can find further
information on the licensee's probation on the Board's Internet Web site.

1 **COST RECOVERY**

2 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 **RESPONDENT'S PRACTICE**

9 12. At all times relevant to this Accusation, Respondent practiced as a gastroenterologist
10 at John Muir Health (JMH) hospital in Walnut Creek, California. Respondent also practiced at a
11 group gastroenterology clinic. Respondent is board certified in gastroenterology.

12 **FIRST CAUSE FOR DISCIPLINE**

13 (Gross Negligence and/or Repeated Negligence and/or Unprofessional Conduct and/or
14 Sexual Misconduct)

15 13. In January 2017, Patient A¹ had an initial visit with Respondent for multiple
16 gastrointestinal (GI) complaints. Patient A had a prior gastric bypass bariatric surgery.

17 14. On June 17, 2019, Patient A saw Respondent because she was experiencing upper
18 abdominal pain. Patient A brought copies of her medical records from Stanford Medical Center
19 and her bariatric surgery medical records. Respondent's staff directed Patient A to see
20 Respondent in a back office.

21 15. In Respondent's back office, Respondent grabbed Patient A's waist from behind and
22 put his hands around her waistline. Patient A felt Respondent's erect penis positioned between
23 her clothed buttocks. Patient A froze in fear and rejected his advances. No chaperone was
24 present during this visit.

25 16. Respondent sat down in a chair and asked Patient A to show him exactly where her
26 pain was coming from. As Patient A stood up, Respondent stuck two fingers up Patient A's

27 _____
28 ¹ Patient A's name is redacted to protect her privacy interests.

1 shorts and inserted his fingers into her vagina. Respondent made oral contact with Patient A's
2 vagina. Patient A grabbed her purse and ran out of Respondent's office leaving behind her
3 medical records, her driver's license card, and medical insurance card. Despite Patient A's
4 complaints of upper abdominal pain, Respondent did not conduct an appropriate abdominal
5 physical examination to localize Patient A's upper GI symptoms.

6 17. On November 13, 2019, Patient A returned to Respondent's office to request return of
7 her driver's license card, medical insurance card, and medical records, which she had left behind
8 at his office. Patient A told Respondent's care coordinator that she wanted to have her medical
9 records transferred to another gastroenterologist. When the care coordinator told Respondent that
10 Patient A was asking for her medical records to be transferred to another doctor, Respondent told
11 the care coordinator to bring Patient A back to his personal office.

12 18. Patient A saw Respondent in his office, and he asked her where her pain was located,
13 and then told her to go to the exam room right across from his office. Patient A reported upper GI
14 complaints. Respondent told Patient A that he would not shut the exam room door. Respondent
15 told Patient A to sit up on the exam table with her knees to her chest and to lay on her side. There
16 was no chaperone during this visit. With the door open, Respondent put on medical gloves, put
17 gel on his fingers, and penetrated Patient A's vagina and anus with his fingers. Respondent
18 moved his fingers in Patient A's vagina in a back and forth motion. Patient A looked back and
19 saw that Respondent was touching his penis with one hand while she could feel his other hand in
20 her vagina and anus. Patient A saw that Respondent had ejaculated on his pants and on Patient
21 A's buttocks. Patient A got up and ran out of Respondent's exam room while crying.
22 Respondent did not document a recto-vaginal (bi-manual) exam in Patient A's medical records.

23 19. On her way out of Respondent's office, Patient A told Respondent's clinical care
24 coordinator about what Respondent had done to Patient A in the exam room. Patient A called
25 911 to report that Respondent had sexually assaulted her.

26 20. Respondent later attempted to bribe Patient A with money, on multiple occasions, so
27 that Patient A would withdraw her police report, and tell them that Respondent did not touch
28 Patient A in a sexual manner. In a conversation recorded by the WCPD, Patient A confronted

1 Respondent about the incident during the November 2019 visit. Respondent defended his actions,
2 claiming that she could have had stool in her rectum. Patient A reminded Respondent that she
3 told him specifically that she did not have any constipation in November 2019.

4 21. Respondent is guilty of unprofessional conduct and subject to discipline for violation
5 of Sections 2234 and/or 2234 (b), and/or 2234 (c) and/or 726, and/or 729 of the Code in that he
6 engaged in sexual misconduct with Patient A and exploited Patient A; and conducted a non-
7 medically indicated recto-vaginal exam on Patient A under the guise of conducting a legitimate
8 medical examination. Respondent also violated the standard of care in that he did not conduct an
9 appropriate abdominal physical examination to address Patient A's upper GI symptoms.

10 **SECOND CAUSE FOR DISCIPLINE**

11 (Failure to Participate in Investigative Board Interview)

12 22. During the investigation, Respondent refused to attend and participate in an interview
13 by the Board.

14 23. Respondent is guilty of unprofessional conduct and subject to discipline for violation
15 of Section 2234 (g) of the Code in that he failed to participate in a Board interview during the
16 investigation.

17 **PRAYER**

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
19 and that following the hearing, the Medical Board of California issue a decision:
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21 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 73092,
22 issued to Faraz Frank Berjis, M.D.;

23 2. Revoking, suspending or denying approval of Faraz Frank Berjis, M.D.'s authority to
24 supervise physician assistants and advanced practice nurses;

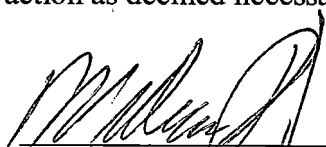
25 3. Ordering Faraz Frank Berjis, M.D., to pay the Board the costs of the investigation and
26 enforcement of this case, and if placed on probation, the costs of probation monitoring;

27 4. Ordering Respondent Faraz Frank Berjis, M.D., if placed on probation, to provide
28 patient notification in accordance with Business and Professions Code section 2228.1; and

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5. Taking such other and further action as deemed necessary and proper.

DATED: NOV 17 2022



WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant